

**§ 1909. Management of purchase cards**

(a) **REQUIRED SAFEGUARDS AND INTERNAL CONTROLS.**—The head of each executive agency that issues and uses purchase cards and convenience checks shall establish and maintain safeguards and internal controls to ensure the following:

(1) There is a record in each executive agency of each holder of a purchase card issued by the agency for official use, annotated with the limitations on single transactions and total transactions that are applicable to the use of each such card or check by that purchase card holder.

(2) Each purchase card holder and individual issued a convenience check is assigned an approving official other than the card holder with the authority to approve or disapprove transactions.

(3) The holder of a purchase card and each official with authority to authorize expenditures charged to the purchase card are responsible for—

(A) reconciling the charges appearing on each statement of account for that purchase card with receipts and other supporting documentation; and

(B) forwarding a summary report to the certifying official in a timely manner of information necessary to enable the certifying official to ensure that the Federal Government ultimately pays only for valid charges that are consistent with the terms of the applicable Government-wide purchase card contract entered into by the Administrator of General Services.

(4) Any disputed purchase card charge, and any discrepancy between a receipt and other supporting documentation and the purchase card statement of account, is resolved in the manner prescribed in the applicable Government-wide purchase card contract entered into by the Administrator of General Services.

(5) Payments on purchase card accounts are made promptly within prescribed deadlines to avoid interest penalties.

(6) Rebates and refunds based on prompt payment, sales volume, or other actions by the agency on purchase card accounts are reviewed for accuracy and properly recorded as a receipt to the agency that pays the monthly bill.

(7) Records of each purchase card transaction (including records on associated contracts, reports, accounts, and invoices) are retained in accordance with standard Government policies on the disposition of records.

(8) Periodic reviews are performed to determine whether each purchase card holder has a need for the purchase card.

(9) Appropriate training is provided to each purchase card holder and each official with responsibility for overseeing the use of purchase cards issued by the executive agency.

(10) The executive agency has specific policies regarding the number of purchase cards issued by various component organizations and categories of component organizations, the credit limits authorized for various categories of card holders, and categories of employees eligible to be issued purchase cards,

and that those policies are designed to minimize the financial risk to the Federal Government of the issuance of the purchase cards and to ensure the integrity of purchase card holders.

(11) The executive agency uses effective systems, techniques, and technologies to prevent or identify illegal, improper, or erroneous purchases.

(12) The executive agency invalidates the purchase card of each employee who—

(A) ceases to be employed by the agency, immediately upon termination of the employment of the employee; or

(B) transfers to another unit of the agency, immediately upon the transfer of the employee unless the agency determines that the units are covered by the same purchase card authority.

(13) The executive agency takes steps to recover the cost of any illegal, improper, or erroneous purchase made with a purchase card or convenience check by an employee, including, as necessary, through salary offsets.

(b) **GUIDANCE.**—The Director of the Office of Management and Budget shall review existing guidance and, as necessary, prescribe additional guidance governing the implementation of the requirements of subsection (a) by executive agencies.

(c) **PENALTIES FOR VIOLATIONS.**—

(1) **IN GENERAL.**—The head of each executive agency shall provide for appropriate adverse personnel actions or other punishment to be imposed in cases in which employees of the agency violate agency policies implementing the guidance required by subsection (b) or make illegal, improper, or erroneous purchases with purchase cards or convenience checks.

(2) **DISMISSAL.**—Penalties prescribed for employee misuse of purchase cards or convenience checks shall include dismissal of the employee, as appropriate.

(3) **REPORTS ON VIOLATIONS.**—The guidance prescribed under subsection (b) shall direct each head of an executive agency with more than \$10,000,000 in purchase card spending annually, and each Inspector General of such an executive agency, on a semiannual basis, to submit to the Director of the Office of Management and Budget a joint report on violations or other actions covered by paragraph (1) by employees of such executive agency. At a minimum, the report shall set forth the following:

(A) A summary description of confirmed violations involving misuse of a purchase card following completion of a review by the agency or by the Inspector General of the agency.

(B) A summary description of all adverse personnel action, punishment, or other action taken based on each violation.

(d) **RISK ASSESSMENTS AND AUDITS.**—The Inspector General of each executive agency shall—

(1) conduct periodic assessments of the agency purchase card or convenience check programs to identify and analyze risks of illegal, improper, or erroneous purchases and pay-

ments in order to develop a plan for using such risk assessments to determine the scope, frequency, and number of periodic audits of purchase card or convenience check transactions;

(2) perform analysis or audits, as necessary, of purchase card transactions designed to identify—

(A) potentially illegal, improper, or erroneous uses of purchase cards;

(B) any patterns of such uses; and

(C) categories of purchases that could be made by means other than purchase cards in order to better aggregate purchases and obtain lower prices (excluding transactions made under card-based strategic sourcing arrangements);

(3) report to the head of the executive agency concerned on the results of such analysis or audits; and

(4) report to the Director of the Office of Management and Budget on the implementation of recommendations made to the head of the executive agency to address findings of any analysis or audit of purchase card and convenience check transactions or programs for compilation and transmission by the Director to Congress and the Comptroller General.

(e) **RELATIONSHIP TO DEPARTMENT OF DEFENSE PURCHASE CARD REGULATIONS.**—The requirements of this section shall not apply to the Department of Defense. See section 2784 of title 10 for provisions relating to management of purchase cards in the Department.

(Added Pub. L. 112-194, §2(a)(1), Oct. 5, 2012, 126 Stat. 1445.)

#### DEADLINE FOR GUIDANCE ON MANAGEMENT OF PURCHASE CARDS

Pub. L. 112-194, §2(c), Oct. 5, 2012, 126 Stat. 1448, provided that: “The Director of the Office of Management and Budget shall prescribe the guidance required by section 1909(b) of title 41, United States Code, as added by subsection (a), not later than 180 days after the date of the enactment of this Act [Oct. 5, 2012].”

### CHAPTER 21—RESTRICTIONS ON OBTAINING AND DISCLOSING CERTAIN INFORMATION

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#### § 2101. Definitions

In this chapter:

(1) **CONTRACTING OFFICER.**—The term “contracting officer” means an individual who, by appointment in accordance with applicable regulations, has the authority to enter into a Federal agency procurement contract on behalf of the Government and to make determinations and findings with respect to the contract.

(2) **CONTRACTOR BID OR PROPOSAL INFORMATION.**—The term “contractor bid or proposal information” means any of the following information submitted to a Federal agency as part of, or in connection with, a bid or proposal to enter into a Federal agency procurement contract, if that information previously has not been made available to the public or disclosed publicly:

(A) Cost or pricing data (as defined in section 2306a(h) of title 10 with respect to procurements subject to that section and section 3501(a) of this title with respect to procurements subject to that section).

(B) Indirect costs and direct labor rates.

(C) Proprietary information about manufacturing processes, operations, or techniques marked by the contractor in accordance with applicable law or regulation.

(D) Information marked by the contractor as “contractor bid or proposal information”, in accordance with applicable law or regulation.

(3) **FEDERAL AGENCY.**—The term “Federal agency” has the meaning given that term in section 102 of title 40.

(4) **FEDERAL AGENCY PROCUREMENT.**—The term “Federal agency procurement” means the acquisition (by using competitive procedures and awarding a contract) of goods or services (including construction) from non-Federal sources by a Federal agency using appropriated funds.

(5) **OFFICIAL.**—The term “official” means—

(A) an officer, as defined in section 2104 of title 5;

(B) an employee, as defined in section 2105 of title 5; and

(C) a member of the uniformed services, as defined in section 2101(3) of title 5.

(6) **PROTEST.**—The term “protest” means a written objection by an interested party to the award or proposed award of a Federal agency procurement contract, pursuant to subchapter V of chapter 35 of title 31.

(7) **SOURCE SELECTION INFORMATION.**—The term “source selection information” means any of the following information prepared for use by a Federal agency to evaluate a bid or proposal to enter into a Federal agency procurement contract, if that information previously has not been made available to the public or disclosed publicly:

(A) Bid prices submitted in response to a Federal agency solicitation for sealed bids, or lists of those bid prices before public bid opening.

(B) Proposed costs or prices submitted in response to a Federal agency solicitation, or lists of those proposed costs or prices.

(C) Source selection plans.

(D) Technical evaluation plans.

(E) Technical evaluations of proposals.

(F) Cost or price evaluations of proposals.

(G) Competitive range determinations that identify proposals that have a reasonable chance of being selected for award of a contract.

(H) Rankings of bids, proposals, or competitors.